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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/780,593

02/18/2004

Floyd Backes

160-056

3377

34845

7590

03/08/2005

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EXAMINER

PHILPOTT, JUSTIN M

ART UNIT

PAPER NUMBER

2665

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/780,593

Applicant(s)

BACKES, FLOYD

Examiner

Justin M Philpott

Art Unit

2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/18/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20041028.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: the brief description does not include figures 8A, 8B, 18A, 18B, 33A and 33B. Accordingly, "Figure 8" (page 3) should be replaced with "Figures 8A and 8B"; "Figure 18" (page 4) should be replaced with "Figures 18A and 18B"; and "Figure 33" (page 6) should be replaced with "Figures 33A and 33B". Appropriate correction is required.

Claim Objections

2. Claim 1 is objected to because of the following informalities: "station; sending" (lines 5-6) should be changed to "station; and sending". Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,493,694 to Vlcek et al.

Regarding claim 1, Vlcek teaches a method comprising: collecting bid messages from stations (e.g., response to interrogation signal by mobile devices at vehicles, see col. 4, lines 29-

Art Unit: 2665

33; col. 7, lines 5-14; and col. 11, lines 33-41), each bid message including a parameter related to the distance between the access point (e.g., central station C, see FIG. 1) and the station (e.g., see col. 7, lines 5-14; and col. 11, lines 33-41 regarding the distance d to the central station); and sending an accept message (e.g., notify selected vehicle, see col. 11, lines 42-45) to one of the stations (e.g., mobile devices at vehicle) from which a bid message was received, the accept message for causing the station to associate with the access point (e.g., for causing the central station to select the particular mobile device/vehicle, see col. 11, lines 42-45).

Regarding claim 5, Vlcek teaches the method discussed above regarding claim 1 and, further, teaches maintaining a table including an entry for each station from which a bid message has been received (e.g., see col. 8, lines 1-44 and TABLE 1), each entry including a parameter (e.g., site distance d(n)); and sending an accept message to the station in the table having the parameter indicating the closest distance (e.g., see col. 11, lines 42-45 regarding selection).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 and 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent Application Publication No. US 2004/0054767 A1 by Karaoguz et al.

Regarding claim 1, Karaoguz teaches a method for use in an access point (e.g., access points 410a-n, see FIG. 4) in a wireless communications environment including multiple access

Art Unit: 2665

points (e.g., access points 410a-n in FIG. 4) and stations (e.g., wireless devices 415a-n), wherein stations gain network access by associating with one or more of the access points (e.g., see paragraph 0021), comprising: collecting bid messages (e.g., see paragraphs 0029-0036 regarding access points gathering location and identity information of the wireless devices and transmitting range messages to the stations), each bid message (e.g., range message) including a parameter related to the distance between the access point and the station (e.g., see paragraph 0033 regarding range message comprising location information indicating the distance range; see also paragraph 0041-0042 regarding location information); and sending an accept message (e.g., range message acknowledgement) from which a bid message was received, the accept message for causing the station to associate with the access point (e.g., see paragraphs 0033-0036 wherein the wireless device further establishes communication with the access point). However, Karaoguz teaches the *station* (not the access point) comprises the functional elements for causing the access point-to-station association (e.g., wherein bid messages are sent from the access point, instead of the station; and accept messages are sent from the station, instead of the access point).

While Karaoguz teaches the station comprises the functional elements for causing the association (e.g., wherein bid messages are sent from the access point, instead of the station; and accept messages are sent from the station, instead of the access point), it is generally considered to be within the ordinary skill in the art to shift the location of parts absent a showing of unexpected results. Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to shift the location of association elements from the station to the access point (i.e., wherein bid messages would be sent from the station and accept messages from the access point) since it is generally considered to be within the ordinary skill in the art to shift the

Art Unit: 2665

location of parts absent a showing of unexpected results. The contention of obvious choice in design can be overcome if Applicant establishes unexpected results. In re Japikse, 86 USPQ 70 (CCPA 1950).

Regarding claim 3, while Karaoguz may not specifically disclose sending an accept message only if a maximum number of associations has not been exceeded, Karaoguz further teaches network optimization is performed (e.g., see paragraphs 0027-0028 and 0045), wherein it is implicit that the number of permissible associations in the network cannot be exceeded. Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to send an accept message only if a maximum number of associations has not been exceeded, since Karaoguz further teaches network optimization is performed (e.g., see paragraphs 0027-0028 and 0045) and it is implicit that the number of permissible associations in the network cannot be exceeded.

Regarding claim 4, Karaoguz teaches maintaining a table including an entry for each station from which a bid message (e.g., range message) has been received, each entry including the parameter (e.g., see paragraph 0043 regarding storage of location information within central server).

Regarding claim 5, Karaoguz teaches the method discussed above regarding claim 1 and further, teaches maintaining a table including an entry for each station from which a bid message has been received, each entry including the parameter (e.g., see paragraph 0043 regarding storage of location information within central server). Further, while Karaoguz may not specifically disclose the accept message is sent to the device having the parameter indicating the closest distance, Karaoguz teaches network optimization is performed (e.g., see paragraphs

Art Unit: 2665

0027-0028 and 0045), wherein it is implicit that the closest device is selected for association in order for the system to operate efficiently. Thus, at the time of the invention it would have been obvious for the accept message in Karaoguz to be sent to the device having the parameter indicating the closest distance, since Karaoguz teaches network optimization is performed (e.g., see paragraphs 0027-0028 and 0045) and it is implicit that the closest device is selected for association in order for the system to operate efficiently.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Karaoguz in view of U.S. Patent No. 6,266,537 to Kashitani et al.

Regarding claim 2, Karaoguz teaches the method discussed above regarding claim 1, however, may not specifically disclose an accept message is sent to the station whose bid message includes the parameter indicating the largest distance change.

Kashitani also teaches a method for associating stations and access points, and specifically discloses associating occurs when the parameter received indicates the largest distance change (e.g., see col. 7, lines 23-32 – col. 8, line 58 regarding polling response signals responding to long-distance ranges or short-distance ranges). The teachings of Kashitani provides reduced interference and increased reliability for wireless transmissions (e.g., see col. 3, line 47 – col. 4, line 26). Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to apply the teachings of Kashitani to the method of Karaoguz in order to provide reduced interference and increased reliability for wireless transmissions.

Art Unit: 2665

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent Application Publication No. US 2004/0066759 A1 by Molteni et al. discloses a method for a wireless station to determine network metrics prior to associating with an access point of a wireless network.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M Philpott whose telephone number is 571.272.3162. The examiner can normally be reached on M-F, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D Vu can be reached on 571.272.3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Justin M Philpott



ALPUS H. HSU
PRIMARY EXAMINER